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U.S. DISTRICT COURT
ALABAMA

Condensed Transcript

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

JAMON T. BRIM,

Plaintiff(s),

vs.

DELL FINANCIAL SERVICES, LLC,
MIDLAND CREDIT MANAGEMENT,
INC.,
MIDLAND FUNDING, LLC,

Civil No.
5:10-CV-369-IPJ

Defendant(s).

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**DEPOSITION OF**

**ANGELIQUE D. ROSS**

September 16, 2010  
9:09 a.m.

402 West Broadway  
16th Floor  
San Diego, California

Reported by: Denise T. Johnson

  
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Angelique D. Ross

September 16, 2010

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| <p>UNITED STATES DISTRICT COURT<br/>NORTHERN DISTRICT OF ALABAMA<br/>NORTHEASTERN DIVISION</p> <p>-----</p> <p>JAMON T. BRIM,</p> <p>Plaintiffs,</p> <p>vs. Civil No.<br/>5:10-CV-369-IPJ</p> <p>DELL FINANCIAL SERVICES, LLC,<br/>MIDLAND CREDIT MANAGEMENT, INC.,<br/>MIDLAND FUNDING, LLC,</p> <p>Defendants.</p> <p>-----</p> <p>DEPOSITION OF<br/>PERSON MOST KNOWLEDGEABLE OF<br/>MIDLAND CREDIT MANAGEMENT, INC.<br/>ANGELIQUE DANIELLE ROSS</p> <p>September 16, 2010<br/>9:09 a.m.</p> <p>402 West Broadway<br/>16th Floor<br/>San Diego, California</p> <p>Reported by Denise T. Johnson, CSR No. 11902</p> | <p>1 INDEX TO EXAMINATION</p> <p>2</p> <p>3 WITNESS: ANGELIQUE DANIELLE ROSS ANGELIQUE DANIELLE</p> <p>4 ROSS</p> <p>5</p> <p>6 EXAMINATION PAGE</p> <p>7 BY MS. CAULEY 5</p> <p>8 BY MR. LANGLEY 124</p> <p>9</p> <p>10</p> <p>11</p> <p>12 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER</p> <p>13 Page Line</p> <p>14 54 6</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>1 Appearances of Counsel</p> <p>2 For Plaintiff:</p> <p>3 HAYS CAULEY</p> <p>4 BY: PENNY HAYS CAULEY</p> <p>5 549 West Evans Street, Suite E</p> <p>6 Florence, South Carolina 29501</p> <p>7 E-mail: phc917@hayscauley.com</p> <p>8 For Defendants:</p> <p>9 BALCH &amp; BINGHAM</p> <p>10 BY: ERIK LANGLEY</p> <p>11 P.O. Box 306</p> <p>12 Birmingham, Alabama 35201-0306</p> <p>13 Also Present: Brian L. Frary</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>1 ANGELIQUE DANIELLE ROSS</p> <p>2 Brim v. Dell Financial</p> <p>3 Thursday, September 16, 2010</p> <p>4 Denise T. Johnson, CSR No. 11902</p> <p>5 INDEX TO EXHIBITS</p> <p>6 EXHIBITS MARKED</p> <p>7 Exhibit 1 Notice of Deposition 6</p> <p>8 Exhibit 2 Collection Detail 75</p> <p>9 Exhibit 3 Documents 14 through 17, 85</p> <p>10 production notes</p> <p>11 Exhibit 4 Defendant's Answers to 107</p> <p>12 Interrogatories</p> <p>13</p> <p>14</p> <p>15 (Original exhibits have been attached to the</p> <p>16 original transcript.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |
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Angelique D. Ross

September 16, 2010

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| <p>1 PERSON MOST KNOWLEDGEABLE<br/>2 DEPOSITION OF ANGELIQUE DANIELLE ROSS<br/>3 SEPTEMBER 16, 2010<br/>4<br/>5 ANGELIQUE DANIELLE ROSS,<br/>6 having been first duly sworn, testified as follows:<br/>7 EXAMINATION<br/>8 BY MS. CAULEY:<br/>9 Q. Please state your name for record.<br/>10 A. Angelique Danielle Ross.<br/>11 Q. My name is Penny Cauley. I am here representing<br/>12 Jamon Brim in a case that we filed against<br/>13 Midland Funding.<br/>14 We talked a little bit off the record. If you<br/>15 need a break at any time -- this is a very informal<br/>16 setting. If you need a break, let us know and we'll take<br/>17 a break when you need it. Okay?<br/>18 A. Yes.<br/>19 Q. Also, if I ask a question and you are not sure<br/>20 about the meaning of the question, let me know that you<br/>21 don't understand it so we can take care of it right then.<br/>22 A. Okay.<br/>23 Q. You are doing a great job of saying "okay" or<br/>24 "yes" or "no." In a deposition, it is very easy to get<br/>25 caught up in head nodding. She can't take that down. If</p> | <p>5<br/>1 MR. LANGLEY: The one nuance to that is Grant<br/>2 will be the witness for No. 7 as it relates to FDCPA.<br/>3 MS. CAULEY: Okay.<br/>4 BY MS. CAULEY:<br/>5 Q. The reason you've been put up for the deposition<br/>6 is the experience and the duties you have for the FCRA?<br/>7 A. Yes.<br/>8 Q. Do you understand that you are testifying here on<br/>9 behalf of Midland Credit Management?<br/>10 A. Yes.<br/>11 Q. And also on behalf of Midland Funding?<br/>12 A. Yes.<br/>13 Q. Do you hold any type of office or are you a<br/>14 member of Midland Funding, LLC?<br/>15 A. No.<br/>16 Q. And you are not an employee of Midland Funding?<br/>17 A. No.<br/>18 Q. You do not get paid by Midland Funding?<br/>19 A. No.<br/>20 Q. You are an employee of Midland Credit Management?<br/>21 A. Yes.<br/>22 Q. And, in fact, is it true that Midland Funding has<br/>23 no employees?<br/>24 A. That's true.<br/>25 Q. Midland Funding is the owner of the debt that was</p> |
| <p>1 I remind you or say something like, "Is that a yes or is<br/>2 that a no," that is not to pick on you or make you<br/>3 uncomfortable. It is just to make sure the answer was<br/>4 clear.<br/>5 A. Okay.<br/>6 MR. LANGLEY: Usual stipulations?<br/>7 MS. CAULEY: That's fine with me, if that is fine<br/>8 with Midland.<br/>9 MR. LANGLEY: Yes, that is good for us. I think<br/>10 the witness will read and sign. But other than that, the<br/>11 usual stipulations.<br/>12 MS. CAULEY: Pursuant to Alabama.<br/>13 MR. LANGLEY: Yes.<br/>14 BY MS. CAULEY:<br/>15 Q. Have you had a chance, Angelique, to review the<br/>16 Notice of Deposition?<br/>17 A. Yes.<br/>18 Q. We spoke off the record with your counsel. Are<br/>19 you the person who would be most knowledgeable regarding<br/>20 the topics identified in the Notice of Deposition except<br/>21 for Topic No. 5 and No. 8?<br/>22 A. Yes.<br/>23 Q. And we're going to mark that notice as<br/>24 Plaintiff's Exhibit 1.<br/>25 (Exhibit 1 was marked.)</p>                                                            | <p>6<br/>1 purchased with respect to Mr. Brim?<br/>2 A. Yes.<br/>3 Q. And all accounts are actually purchased by<br/>4 Midland Funding, LLC; is that right?<br/>5 A. Yes.<br/>6 Q. But all employees who have any responsibility<br/>7 with respect to collecting or the handling of disputes<br/>8 through the credit bureau are employed by Midland Credit<br/>9 Management?<br/>10 A. Yes.<br/>11 Q. Can we agree for purposes of the deposition that<br/>12 if I use the term "Midland," I'm referring to Midland<br/>13 Credit Management?<br/>14 A. Yes.<br/>15 Q. And you are not a director or an officer of<br/>16 Midland Funding?<br/>17 A. No.<br/>18 Q. You already gave us your name. Will you give us<br/>19 your address, please.<br/>20 A. My home address?<br/>21 Q. Yes, please.<br/>22 A. Will that be public record?<br/>23 Q. It will be in this deposition.<br/>24 A. I just don't want it to get out publicly with my<br/>25 address on anything.</p>                     |

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| <p>1        MR. LANGLEY: Can she give you her business<br/>2        address?</p> <p>3        MS. CAULEY: That would be fine.</p> <p>4        THE WITNESS: Thank you.</p> <p>5        8875 Aero Drive, Suite 200, San Diego,<br/>6        California, 92123.</p> <p>7        BY MS. CAULEY:</p> <p>8        Q. And what position do you hold at Midland?</p> <p>9        A. I am the consumer relations manager.</p> <p>10      Q. How long have you held that position?</p> <p>11      A. A little over four years.</p> <p>12      Q. Have you held any other positions at Midland?</p> <p>13      A. Yes.</p> <p>14      Q. What were they?</p> <p>15      A. Consumer relations liaison and consumer relations<br/>lead.</p> <p>16      Q. How long were you the liaison?</p> <p>17      A. Approximately six months.</p> <p>18      Q. And then I presume you were promoted to consumer<br/>relations manager?</p> <p>19      A. I was the consumer liaison first, then promoted<br/>to lead, then promoted to manager.</p> <p>20      Q. How long did you work as the lead?</p> <p>21      A. About two-and-a-half years.</p> <p>22      Q. Who is your supervisor at Midland?</p> | <p>9        1        Q. Can you spell that?</p> <p>10      2        A. Z-a-b-k-a.</p> <p>11      3        Q. Is that a man or a woman?</p> <p>12      4        A. Man.</p> <p>13      5        Q. And what was his job title, position?</p> <p>14      6        A. I'm not sure. I know it was corporate counsel.</p> <p>15      7        But I'm not sure if there was anything in addition to<br/>that.</p> <p>16      8        Q. Any other supervisors that you've had while<br/>you've been employed at Midland?</p> <p>17      9        A. Yes, Christina Fudge.</p> <p>18      10      Q. What was her position?</p> <p>19      11      A. She was the consumer relations manager.</p> <p>20      12      Q. Okay. That would have been while you were<br/>working as the liaison?</p> <p>21      13      A. Yes.</p> <p>22      14      Q. I take it Mr. Naves is still employed at Midland?</p> <p>23      15      A. Yes.</p> <p>24      16      Q. Is Mr. Martin still employed at Midland?</p> <p>25      17      A. No.</p> <p>10      18      Q. What about Sven Zabka?</p> <p>11      19      A. No.</p> <p>12      20      Q. Christina Fudge?</p> <p>13      21      A. No.</p> <p>14      22      Q. Where did you work prior to Midland?</p>                                                                                              |
| <p>1        A. Juan Naves.</p> <p>2        Q. Do you know how to spell that?</p> <p>3        A. N-a-v-e-s.</p> <p>4        Q. What is his title?</p> <p>5        A. General counsel.</p> <p>6        Q. Do you know how long he's been in that position?</p> <p>7        A. A little over a year.</p> <p>8        Q. Who was your supervisor prior to Ron Naves?</p> <p>9        A. Lance Martin.</p> <p>10      Q. Did Lance Martin also serve as general counsel?</p> <p>11      A. No.</p> <p>12      Q. What was his position?</p> <p>13      A. He was VP of -- I think it is legal and<br/>compliance or legal affairs and compliance. I'm not sure<br/>of the exact title.</p> <p>14      Q. How long has Ron Naves been your supervisor?</p> <p>15      A. For about eight months.</p> <p>16      Q. And then Mr. Martin, how long was he your<br/>supervisor?</p> <p>17      A. I would say two to two-and-a-half years.</p> <p>18      Q. Do you recall who your supervisor was prior to<br/>Lance Martin?</p> <p>19      A. Yes.</p> <p>20      Q. Who was that?</p> <p>21      A. Sven Zabka, S-v-e-n, last name is Zabka.</p>                                             | <p>10      1        A. Telespectrum.</p> <p>11      2        Q. What did you do there?</p> <p>12      3        A. I was a quality assurance manager.</p> <p>13      4        Q. And what do they do?</p> <p>14      5        A. It was a call center.</p> <p>15      6        Q. Are they a creditor?</p> <p>16      7        A. No.</p> <p>17      8        Q. What kind of call center is it?</p> <p>18      9        A. I worked in the telesales department.</p> <p>19      10      Q. How long did you do that job?</p> <p>20      11      A. Four-and-a-half years.</p> <p>21      12      Q. Where did you work before that?</p> <p>22      13      A. Service America.</p> <p>23      14      Q. What type of a job was that?</p> <p>24      15      A. It was actually retail.</p> <p>25      16      Q. Do they sell goods and services?</p> <p>12      17      A. Yeah, goods.</p> <p>13      18      Q. Besides working at Midland, have you worked at<br/>any other employer where you had any responsibilities with<br/>respect to the Fair Credit Reporting Act?</p> <p>14      19      A. No.</p> <p>15      20      Q. Prior to being employed by Midland, had you ever<br/>had any training regarding the Fair Credit Reporting Act?</p> <p>16      21      A. No.</p> <p>17      22      Q. Tell me approximately when you started at</p> |



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| <p>1 them. There are a few accounts that they may not have<br/>2 access to. Those are the only ones that are responded to<br/>3 by San Diego.</p> <p>4 Q. So unless an account has been flagged for<br/>5 San Diego, all other ACDVs are going to be handled by the<br/>6 St. Cloud office?</p> <p>7 A. Yes.</p> <p>8 Q. What type of accounts would St. Cloud not have<br/>9 access to?</p> <p>10 A. Health care accounts.</p> <p>11 Q. And in this case, Mr. Brim's account was related<br/>12 to a computer purchase. So all his ACDVs would have been<br/>13 handled by the St. Cloud site?</p> <p>14 A. Either the St. Cloud site or our automated<br/>15 system, yes.</p> <p>16 Q. And what automated system does Midland use?</p> <p>17 A. We use a batch interface.</p> <p>18 Q. Batch interface?</p> <p>19 A. Yes.</p> <p>20 Q. How does that work?</p> <p>21 A. When an ACDV comes in, we use the E-Oscar system.<br/>22 And our automated system can look at the ACDV, match it,<br/>23 compare it to our account system information and respond<br/>24 to the majority of the ACDVs.</p> <p>25 Q. Does that batch interface system have a name?</p>                                                                                        | <p>21</p> <p>1 accurate?</p> <p>2 A. Yes.</p> <p>3 Q. If an ACDV comes in claiming an account has been<br/>4 paid in full, are those ACDVs also handled by the batch<br/>5 interface system?</p> <p>6 A. It would depend.</p> <p>7 Q. What would it depend on?</p> <p>8 A. It would depend on information on the actual<br/>9 Midland account, not the ACDV itself.</p> <p>10 Q. Tell me what information on the Midland system<br/>11 would cause an ACDV claiming that its debt had been paid<br/>12 in full to be handled by an individual versus the batch<br/>13 interface system.</p> <p>14 A. There may be specific codes on the account or the<br/>15 account may reside in a specific location in our system.</p> <p>16 Q. What would some of those codes on the account be?</p> <p>17 A. For instance, if the account had a DIS dispute<br/>18 code, the system could select that ACDV for manual review.</p> <p>19 Q. What are the other codes where the system can<br/>20 select an ACDV for manual review?</p> <p>21 A. I don't know off -- I can't think of other ones<br/>22 offhand. It may select or move the account for being in a<br/>23 specific location in our system.</p> <p>24 Q. What would those locations be?</p> <p>25 A. It could be -- there are several. 45-G, 45-P.</p> |
| <p>1 A. No. We just call it the "batch interface."</p> <p>2 Q. Is that a system or program that was designed by<br/>3 Midland?</p> <p>4 A. It wasn't designed by Midland. We had to adapt<br/>5 it to work with our system. But it wasn't designed by<br/>6 Midland, no.</p> <p>7 Q. Do you know where it came from? Who designed it?</p> <p>8 A. We purchased the basic program from the same<br/>9 people that created the E-Oscar program.</p> <p>10 Q. So the batch interface system was actually<br/>11 initially developed by the same company that you purchased<br/>12 E-Oscar program from; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. It's been modified to work with Midland's own<br/>15 internal system?</p> <p>16 A. Yes.</p> <p>17 Q. Can you give me your best judgment on what<br/>18 percentage of ACDVs are handled exclusively by the batch<br/>19 interface?</p> <p>20 A. I would say maybe 95 percent.</p> <p>21 Q. So I make sure that I understand, when an ACDV<br/>22 comes in, the batch interface system can review the<br/>23 computer codes on the ACDV and compare the information<br/>24 contained on the ACDV with the information in Midland's<br/>25 system and automatically verify that the information is</p> | <p>22</p> <p>1 45-F.</p> <p>2 Q. What does "45-G" mean?</p> <p>3 A. It means the consumer disputed in writing within<br/>4 45 days of the validation letter and the account is<br/>5 currently under an investigation. And it was a general<br/>6 dispute, nonspecific.</p> <p>7 Q. What about "45-P"?</p> <p>8 A. So it means all of the same things except this<br/>9 dispute -- the dispute was that the account was paid<br/>10 prior.</p> <p>11 Q. Paid prior to Midland purchasing the account?</p> <p>12 A. Yes.</p> <p>13 Q. What about "F"?</p> <p>14 A. All of the same -- the account -- or the dispute<br/>15 is that the account is fraudulent.</p> <p>16 Q. If a consumer sends in a letter within 45 days of<br/>17 the validation letter that goes out on the account with a<br/>18 general dispute, a code of 45-G is placed on that account;<br/>19 is that right?</p> <p>20 A. Yes. Well, that's actually the location it is<br/>21 moved to. The code would be the DIS code.</p> <p>22 Q. So the account itself is moved to a 45-G location<br/>23 in the system?</p> <p>24 A. Yes.</p> <p>25 Q. Meaning the computer system?</p>                                                                                                                                                    |

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| <p>1 to the consumer to ask them for more information to help<br/>2 them locate their account.<br/>3 Q. Any changes with respect to the handling of the<br/>4 ACDVs?<br/>5 A. No.<br/>6 Q. So basically, now if a consumer sends in a letter<br/>7 that does not contain any documentation but is just a<br/>8 letter of dispute, even if it has the cease and desist<br/>9 request, Midland has a new form letter that can go out<br/>10 stating they need additional information regarding the<br/>11 dispute and that no contact will be made with the<br/>12 consumer; is that right?<br/>13 A. Yes.<br/>14 Q. Going back to 2008 and 2009, if a consumer sent<br/>15 in a written dispute, regardless of what the dispute was,<br/>16 and it did contain some documentation, how was that<br/>17 dispute handled?<br/>18 A. It would depend on the documentation that was<br/>19 received.<br/>20 Q. All right. What type of documentation does<br/>21 Midland normally get?<br/>22 A. Do you mean generally?<br/>23 Q. With respect to a dispute.<br/>24 A. It will vary depending on the type of dispute.<br/>25 Q. What about with respect to a paid prior dispute?</p> | <p>29</p> <p>1 Q. In consumer relations?<br/>2 A. Yes.<br/>3 Q. If all the mail comes into San Diego, how does<br/>4 some of it get to St. Cloud?<br/>5 A. It is shipped there.<br/>6 Q. Do you just take, like, a stack of mail that<br/>7 comes in and say, "This stack is going to go to<br/>8 St. Cloud"?<br/>9 A. Basically, yes.<br/>10 Q. Trying to divide up the amount of mail that comes<br/>11 in?<br/>12 A. Yes.<br/>13 Q. Regardless of whether it is in San Diego or<br/>14 St. Cloud, a consumer relations employee will actually<br/>15 open the mail and read the letter?<br/>16 A. The mail is opened by our mailroom. But the<br/>17 consumer relations team -- either site, they're<br/>18 responsible for reading the letter.<br/>19 Q. Does the letter go to consumer relations as the<br/>20 actual letter or is it scanned?<br/>21 A. It is the actual letter.<br/>22 Q. What is done with it after consumer relations<br/>23 sees it?<br/>24 A. After it is received and reviewed, any dispute<br/>25 letters will then be scanned after they have been</p>                                             |
| <p>1 A. We may receive paid letters.<br/>2 Q. Like a paid-in-full letter?<br/>3 A. Yes.<br/>4 Q. Okay.<br/>5 A. We may receive settlement offer letters with<br/>6 copies of proof of payment. Sometimes we receive canceled<br/>7 checks. We receive bank statements.<br/>8 Q. Who reviews the documentation that is sent in<br/>9 respect to a dispute? Is that the consumer relations<br/>10 department?<br/>11 A. Yes.<br/>12 Q. What determines where the letter is sent,<br/>13 San Diego versus St. Cloud?<br/>14 A. There isn't a determination based on the mail<br/>15 itself. It is just basically the date that the mail came<br/>16 in. We know there is shipping time, so the mail generally<br/>17 will go out to St. Cloud. Is it not based on the type of<br/>18 mail.<br/>19 Q. Does all mail come to San Diego?<br/>20 A. Yes, most of it.<br/>21 Q. Is it scanned? Does the department open the<br/>22 letter and deal with the letter, or is it scanned and sent<br/>23 electronically?<br/>24 A. We get the hard copies of the correspondence, so<br/>25 the letters are actually opened and read, the hard copies.</p>                                   | <p>30</p> <p>1 processed.<br/>2 Q. Are there any policies or procedures that<br/>3 instruct the consumer relations employees on how to review<br/>4 the documentation that's supplied with respect to a<br/>5 dispute?<br/>6 A. Yes.<br/>7 Q. Where are those policies maintained?<br/>8 A. That would be in the consumer relations manual.<br/>9 MS. CAULEY: We don't have that.<br/>10 MR. LANGLEY: I think you do.<br/>11 MS. CAULEY: It is two pages?<br/>12 THE WITNESS: No.<br/>13 MR. LANGLEY: I think it is about seven pages in<br/>14 a chart format with designations in the upper left-hand<br/>15 corner about the type of dispute and when it is received.<br/>16 BY MS. CAULEY:<br/>17 Q. Let me hand you that. Please tell me which parts<br/>18 of that constitute the consumer relations manual.<br/>19 MR. LANGLEY: Just to make sure the record is<br/>20 clear, we're looking at Bates labeled Documents 163<br/>21 through 169 and 202 through 204.<br/>22 MS. CAULEY: The top page doesn't go with it.<br/>23 THE WITNESS: This is part of the new hire<br/>24 training manual.<br/>25 BY MS. CAULEY:</p> |

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| <p>37</p> <p>1 Q. So "GUI," "R2K" and "I series" all refer to the<br/>2 same computer system?</p> <p>3 A. Yes.</p> <p>4 Q. The liaison is to look at the account, view the<br/>5 account history and then add a warning code, 023, which is<br/>6 just noting that a dispute was just received?</p> <p>7 A. Yes.</p> <p>8 Q. But that it is okay to continue to work on the<br/>9 account?</p> <p>10 A. Yes.</p> <p>11 Q. Step 6 is, "Send the consumer a QCPP letter<br/>12 requesting documentation."</p> <p>13 A. Yes.</p> <p>14 Q. And that is supposed to be done on all verbal<br/>15 disputes claiming that an account was paid prior to<br/>16 Midland purchasing it?</p> <p>17 A. Unless the consumer is represented by an attorney<br/>18 or they requested a cease and desist, then typically that<br/>19 QCPP letter would go out once those conditions are there.</p> <p>20 Q. I see that now under the "Comment" section. If<br/>21 there is an attorney or a cease and desist request, then<br/>22 no QCPP letter is sent?</p> <p>23 A. Correct.</p> <p>24 Q. Have you received an updated consumer relations<br/>25 operation manual since July 2010?</p>                                                   | <p>39</p> <p>1 A. Say that again.</p> <p>2 Q. Sure.</p> <p>3 It has two examples of what would constitute<br/>4 proof of a paid prior dispute on Page 168, right?</p> <p>5 A. Correct.</p> <p>6 Q. Is there any other document or memo or guideline<br/>7 that would help a liaison know what other proof would be<br/>8 acceptable with respect to Midland?</p> <p>9 A. No.</p> <p>10 MR. LANGLEY: Object to the form.</p> <p>11 THE WITNESS: No.</p> <p>12 BY MS. CAULEY:</p> <p>13 Q. There is no list of other documents that would be<br/>14 accepted as proof that an account had been paid prior?</p> <p>15 A. Not that I'm aware of.</p> <p>16 Q. So according to Page 168, the only acceptable<br/>17 proof is the front and back of a cancelled check with a<br/>18 settlement offer or a paid letter?</p> <p>19 A. Right. There isn't another document that gives a<br/>20 list. But if someone provided a settlement offer letter<br/>21 with a different proof of payment, that could be<br/>22 considered proof even though it doesn't specifically say<br/>23 that.</p> <p>24 Q. Bank statement is not on there, is it?</p> <p>25 A. No.</p> |
| <p>38</p> <p>1 A. No.</p> <p>2 Q. So the employees in consumer relations are<br/>3 continuing to handle verbal disputes the same way today as<br/>4 they were in 2009?</p> <p>5 A. Yes.</p> <p>6 Q. Pages 168 through 169, that's the guidelines for<br/>7 handling written disputes that it has been paid prior; is<br/>8 that correct?</p> <p>9 A. Correct.</p> <p>10 Q. The liaison is to review the account and verify<br/>11 that the social, name and address match?</p> <p>12 A. Yes, if they can. Consumers don't always include<br/>13 all the information on their correspondence.</p> <p>14 Q. They're also looking for proof. Here it says it<br/>15 could be the front and back of a cancelled check with a<br/>16 settlement offer letter or paid letter with a matching<br/>17 account number?</p> <p>18 A. Yes.</p> <p>19 Q. That matching account number matching Midland's<br/>20 account number or the original creditor's account number?</p> <p>21 A. It should be with the original creditor's account<br/>number.</p> <p>22 Q. Are there any other documents that help consumer<br/>relations liaisons determine what is sufficient proof with<br/>23 respect to the accounts with a paid prior?</p> | <p>40</p> <p>1 Q. Is a bank statement showing payment to the<br/>2 original creditor sufficient proof that the account had<br/>3 been paid prior?</p> <p>4 A. No.</p> <p>5 Q. Never?</p> <p>6 A. Not by itself, no.</p> <p>7 Q. On No. 5, it says, "If unable to determine if<br/>8 proof is valid, account will be referred to ACQ."</p> <p>9 What is "ACQ"?</p> <p>10 A. It stand for "acquisitions."</p> <p>11 Q. Where is acquisitions?</p> <p>12 A. Where are they?</p> <p>13 Q. Are they in the San Diego office?</p> <p>14 A. Yes, in San Diego.</p> <p>15 Q. Also in St. Cloud or just San Diego?</p> <p>16 A. Just San Diego.</p> <p>17 Q. Who is in charge of the acquisitions department?</p> <p>18 A. The entire acquisitions department would be Amy<br/>Anuk.</p> <p>19 Q. How do you spell that?</p> <p>20 A. A-n-u-k.</p> <p>21 Q. What is her title?</p> <p>22 A. I'm not sure. I know she is the VP.</p> <p>23 Q. Do you have any knowledge what happens when an<br/>account is assigned to the acquisitions department?</p>                                                                                                              |

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| <p>1 A. Yes.</p> <p>2 Q. Meaning to mark the account as "disputed" or to<br/>3 put it in the proper queue?</p> <p>4 A. Right. Or if there is a cease and desist request<br/>5 or attorney representation, to follow steps appropriately.</p> <p>6 Q. The consumer relations department doesn't make<br/>7 any attempts to collect the debt from a consumer, correct?</p> <p>8 A. Correct.</p> <p>9 Q. With respect to the FDCPA, the responsibilities<br/>10 would come in with the handling of a cease and desist<br/>11 request or reporting the account to the credit bureau?</p> <p>12 A. Or processing written disputes that are received<br/>13 from the consumer.</p> <p>14 Q. Have you testified in a deposition before<br/>15 regarding your responsibilities pursuant to the FDCPA?</p> <p>16 A. Yes.</p> <p>17 Q. In the depositions you've given before, have any<br/>18 of those cases involved claims similar to those here under<br/>19 the Fair Credit Reporting Act in the handling of an ACDV?</p> <p>20 A. Yes.</p> <p>21 Q. Were any of those depositions this year?</p> <p>22 A. I do not believe so.</p> <p>23 Q. Are there any other documents you reviewed in<br/>24 preparation for the deposition that were not in the<br/>25 documents I provided you, other than the two that we got</p> | <p>53</p> <p>1 With respect to Midland, Midland does not use any<br/>2 type of outsource vendors for the handling of ACDV?</p> <p>3 A. No.</p> <p>4 Q. You would agree that Midland is responsible for<br/>5 reporting accurate information to the credit reporting<br/>6 agencies regarding specific accounts, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Would you agree that Midland is responsible for<br/>9 the accuracy of the information that it reports<br/>10 specifically to the credit bureaus?</p> <p>11 A. Correct.</p> <p>12 Q. Midland is also responsible for the accuracy of<br/>13 information that it provides to any other entity regarding<br/>14 a specific account?</p> <p>15 A. I'm not sure what you mean.</p> <p>16 Q. If Midland were to send information on an account<br/>17 to an attorney for collection or for a lawsuit or to any<br/>18 other entity with respect to collection or to sell the<br/>19 account, the information that Midland provides should be<br/>20 accurate, right?</p> <p>21 A. Yes.</p> <p>22 Q. With respect to the Fair Debt Collection<br/>23 Practices Act, it is a violation of that act for Midland<br/>24 to communicate any information that it knows or which it<br/>25 should know to be false, correct?</p> |
| <p>1 today?</p> <p>2 MR. LANGLEY: To the extent it involves some<br/>3 document that Brian or I may have shown you, I'm going to<br/>4 object on the grounds of attorney-client privilege,<br/>5 work-product doctrine and instruct the witness not to<br/>6 answer.</p> <p>7 THE WITNESS: I've seen the Notice of Deposition.</p> <p>8 BY MS. CAULEY:</p> <p>9 Q. Any other documents or screens or information<br/>10 that you might have reviewed that was not shown to you by<br/>11 your attorney?</p> <p>12 A. Oh, that wasn't shown to me? No.</p> <p>13 Q. The reporting of accounts is done by Midland<br/>14 Credit Management; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. Is there any type of contract between Midland<br/>17 Funding and Midland Credit Management regarding the<br/>18 reporting of accounts by Midland Credit Management?</p> <p>19 A. I don't know.</p> <p>20 Q. Do you know if Midland Funding pays Midland<br/>21 Credit Management any type of fee or payment for the<br/>22 reporting and the handling of ACDV?</p> <p>23 A. I don't know.</p> <p>24 Q. I'm going back to "Midland" as referring to<br/>25 Midland Credit Management.</p>                                                                                                                               | <p>54</p> <p>1 MR. LANGLEY: Object to the form.<br/>2 You can answer, if you can.<br/>3 THE WITNESS: Yes.<br/>4 BY MS. CAULEY:<br/>5 Q. I believe you told me earlier that you are<br/>6 familiar with the Fair Credit Reporting Act?<br/>7 A. Yes.<br/>8 Q. And in the new hire training manual, there are a<br/>9 few pages that deal with the Fair Credit Reporting Act.<br/>10 Did you receive a copy of the new hire training manual?<br/>11 A. I don't have a hard copy. But there is a -- I do<br/>12 have access to a copy.<br/>13 Q. Were you provided a copy when you were hired or<br/>14 is that something done electronically in the system?<br/>15 A. I was not provided a copy when I was hired. This<br/>16 is for the account managers. But all employees have<br/>17 access to it on our system.<br/>18 Q. So the consumer relations employees are not given<br/>19 the new hire training manual that was provided?<br/>20 A. No.<br/>21 Q. How are the consumer relations employees trained<br/>22 on the Fair Credit Reporting Act?<br/>23 A. Well, it is not as specific -- or it wasn't a<br/>24 specific training. It was just basically in relation to<br/>25 the procedures they were doing in processing the disputes.</p>                          |

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| <p>1 Q. The consumer relations employees are not provided<br/>2 with a copy of the Fair Credit Reporting Act when they're<br/>3 hired; is that correct?</p> <p>4 A. That's correct. But they also have access to<br/>5 this.</p> <p>6 Q. They have access to the new hire training manual?</p> <p>7 A. Yes.</p> <p>8 Q. But the new hire training manual doesn't contain<br/>9 the Fair Credit Reporting Act?</p> <p>10 A. No, I don't think so.</p> <p>11 Q. Are you aware that Midland is responsible for<br/>12 investigating the disputes received on an account to the<br/>13 credit reporting agencies?</p> <p>14 A. Yes.</p> <p>15 Q. And Midland is responsible for conducting that<br/>16 investigation within 30 days?</p> <p>17 A. Yes.</p> <p>18 Q. Those disputes are all received via the ACDV<br/>19 through the credit bureaus?</p> <p>20 A. Yes.</p> <p>21 Q. You told me 99 percent of ACDVs are handled<br/>22 electronically through the batch; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. If an ACDV is not handled automatically through<br/>25 the batch system, are there steps contained in any type of</p>                                                                                                                                                                                                         | <p>57</p> <p>1 To sort of make that easier for the person in<br/>2 consumer relations to actually find which screen to go to?</p> <p>3 A. Yes.</p> <p>4 Q. Like a cheat-sheet, for lack of a better term?</p> <p>5 A. Yes.</p> <p>6 Q. Is the E-Oscar tutorial also something that can<br/>7 be printed?</p> <p>8 A. Yeah, you can print it.</p> <p>9 Q. Do all employees in the consumer relations<br/>10 department take the E-Oscar tutorial?</p> <p>11 A. Yes.</p> <p>12 Q. Does that E-Oscar tutorial help the employees<br/>13 know how to perform or respond to an ACDV that is received<br/>14 through E-Oscar?</p> <p>15 A. No. Well, it shows them the choices they have to<br/>16 respond. But it is more or less a user guide of how to<br/>17 use and navigate through the E-Oscar system itself.</p> <p>18 Q. So the tutorial doesn't explain to the consumer<br/>19 relations employee how to actually conduct an<br/>20 investigation with respect to an ACDV but basically gives<br/>21 them the drop-down menus of what codes are available for<br/>22 responding?</p> <p>23 Would that be fair?</p> <p>24 A. Yes.</p> <p>25 Q. Since January of 2008, you have been in charge of</p>                                           |
| <p>1 manual or policy, whether it is printed or just a note on<br/>2 the system, that tells an individual in consumer relations<br/>3 how to investigate that credit dispute?</p> <p>4 A. Well, as far as using the actual system, there is<br/>5 a tutorial that is available through the E-Oscar system to<br/>6 show them how to actually put information in. Other than<br/>7 that, we have just some screen prints that show the screen<br/>8 in order to find the information on our system.</p> <p>9 Q. You lost me just a little bit.</p> <p>10 You have screen prints that tell the employees<br/>11 where to find the information on your system. Can you<br/>12 explain that more for me? Does consumer relations have<br/>13 the same computer system that the collections department<br/>14 might have?</p> <p>15 A. Yes.</p> <p>16 Q. They have access -- consumer relations has access<br/>17 the same screens as the collections department?</p> <p>18 A. Yes.</p> <p>19 Q. So the information would be that there might be a<br/>20 screen that would tell them where to find a payment<br/>21 history or previous addresses or something of that nature?</p> <p>22 A. Yes.</p> <p>23 Q. There are quite a few screens in the system --</p> <p>24 A. Right.</p> <p>25 Q. -- judging from the documents that were produced.</p> | <p>58</p> <p>1 overseeing the handling of ACDVs?</p> <p>2 A. Yes.</p> <p>3 Q. Did you or the supervisors that are under you<br/>4 conduct any type of review of responses to ACDV?</p> <p>5 A. We may review non-submitted responses. But if<br/>6 there a question about a response, we'll review the<br/>7 account and the ACDV to look at the most appropriate<br/>8 response.</p> <p>9 Q. Once an ACDV is actually completed and returned<br/>10 to the credit bureau, there is no internal monitoring of<br/>11 whether those responses were correct?</p> <p>12 A. No.</p> <p>13 Q. You don't have any type of reports that you<br/>14 compile on the number of disputes that were handled?</p> <p>15 A. Well, I can see how many disputes came in through<br/>16 the E-Oscar.</p> <p>17 Q. How many disputes does Midland normally get, say,<br/>18 per week for ACDV?</p> <p>19 A. I would say maybe about 8,000.</p> <p>20 Q. Would that be the same pretty much every week?</p> <p>21 A. Yeah.</p> <p>22 Q. And then if my math is right, five percent of<br/>23 that would be about 400 are actually handled by an<br/>24 individual in the consumer relations department per week?</p> <p>25 A. Yeah, I guess that is about right.</p> |

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| <p>1 Q. Have those numbers been the same from 2008 to<br/>2 today?<br/>3 A. I would say approximately the same.<br/>4 Q. I understand they might go up slightly, but<br/>5 overall they've been about the same since January of 2008?<br/>6 A. Yes.<br/>7 Q. You have actually been the manager of the<br/>8 consumer relations department since January of 2008?<br/>9 A. Yes.<br/>10 Q. Do you have any knowledge regarding the<br/>11 validation letter or how interest was calculated on the<br/>12 account with respect to collecting this account from<br/>13 Mr. Brim?<br/>14 A. No.<br/>15 MS. CAULEY: That would be our other witness most<br/>16 likely.<br/>17 MR. LANGLEY: I'm not sure if he can testify<br/>18 about that since his thing is more related to FDCPA<br/>19 training issues. He may. I guess we can find out.<br/>20 MS. CAULEY: Off the record.<br/>21 (A discussion off the record was held.)<br/>22 MS. CAULEY: I'm not marking documents 163<br/>23 through 169 --<br/>24 MR. LANGLEY: Okay.<br/>25 MS. CAULEY: -- since they're confidential.</p> | <p>61</p> <p>1 Q. I can't read. I'm sorry. October 26, 2007.<br/>2 A. Yes.<br/>3 Q. Then December 20th, 2007?<br/>4 A. Yes.<br/>5 Q. And then the letter that we have which is dated<br/>6 January 22, 2008?<br/>7 A. Yes.<br/>8 Q. If a letter is sent by Midland, that letter is<br/>9 documented in the letter history inquiry, correct?<br/>10 A. Correct.<br/>11 Q. Even if a letter is sent by the consume relations<br/>12 department, it would be documented in the "Letter History"<br/>13 screen?<br/>14 A. Yes.<br/>15 Q. Based on the "Letter History" screen, we know<br/>16 only three letters were sent to Mr. Brim by Midland?<br/>17 A. Yes.<br/>18 Q. If you go back to Document No. 1, it indicates a<br/>19 current balance of \$1,603.15; is that right?<br/>20 A. Yes.<br/>21 Q. It indicates that Midland Funding owns the debt.<br/>22 A. Yes.<br/>23 Q. If you turn to Page 2, which would have been<br/>24 attached to this letter, Page 1; is that right?<br/>25 A. Yes.</p> |
| <p>1 BY MS. CAULEY:<br/>2 Q. If you'll look at the top page, which is<br/>3 Midland 1 and 2, this was provided as a letter sent to<br/>4 Mr. Brim on January 22, 2008. Upon your reviewing of the<br/>5 computer screens and the documents, are you aware of any<br/>6 previous letter to this January 22, 2008 letter being sent<br/>7 to Mr. Brim?<br/>8 A. I would need to look at the production notes.<br/>9 Yes.<br/>10 Q. What page is that?<br/>11 A. 73.<br/>12 Q. This is the "Letter History" screen?<br/>13 A. Yes.<br/>14 Q. It says "Page 1 of 3." Page 2 and Page 3 are<br/>15 blank. Do you know why they're blank?<br/>16 A. I believe there is information that needs to fill<br/>17 those pages.<br/>18 Q. So that's the amount of space that is allotted to<br/>19 enter information regarding letters, and it is just that<br/>20 that space was not needed?<br/>21 A. I believe so.<br/>22 Q. If we look at Page 73, the "Letter History"<br/>23 screen, it shows a letter was sent on October 20th of<br/>24 2007?<br/>25 A. I see October --</p>           | <p>62</p> <p>1 Q. On the back, it has an interest rate of six<br/>2 percent.<br/>3 Did you see that?<br/>4 A. Yes.<br/>5 Q. Do you know how this interest rate was selected<br/>6 for this account?<br/>7 A. I do not.<br/>8 Q. Do you have any knowledge of how interest rates<br/>9 are selected for specific accounts by Midland?<br/>10 A. No, I don't.<br/>11 Q. Midland still owns this account?<br/>12 A. Yes.<br/>13 Q. If you go to the next letter, which is Page 3,<br/>14 this is actually a letter that Mr. Brim sent in to<br/>15 Midland. And it is dated July 29, 2008, correct?<br/>16 A. Correct.<br/>17 Q. It was received on August 5th, 2000 by your<br/>18 department?<br/>19 A. Correct.<br/>20 Q. Attached to that letter was a bank statement from<br/>21 Red Stone Federal Credit Union.<br/>22 A. Correct.<br/>23 Q. In this letter, Mr. Brim indicated that he<br/>24 disputed the debt; is that right?<br/>25 A. Yes.</p>                                                  |